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May 22, 2023

By Electronic Filing on Both Dockets

Hon. Lorna G. Schofield, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

The deposition dates below are SO ORDERED and may not be changed absent court order. A revised Case Management Plan reflecting the requested extension of discovery will issue separately.

Dated: May 23, 2023
New York, New York

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

**Re: *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 1:22-cv-01243 (LGS)
Sport-BLX, Inc. v. Salerno, et al., Docket No. 1:22-cv-08111 (LGS)**

Dear Judge Schofield,

This firm represents Plaintiff Cypress Holdings, III, L.P. (“Cypress”) in the action entitled *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 1:22-cv-01243 (LGS) (the “Cypress Action”). This firm also represents Defendants Michael M. Salerno (“Salerno”) and Cypress (collectively, the “Cypress Parties”) in the related action entitled *Sport-BLX, Inc. v. Salerno, et al.*, Docket No. 1:22-cv-08111 (LGS) (the “Sport-BLX Action,” together with the Cypress Action, the “Actions”). On October 13, 2022, Your Honor ordered that the Actions be “coordinated for purposes of discovery.” (Cypress Action, ECF No. 56; Sport-BLX Action, ECF No. 11). Pursuant to Paragraph 13(a) of the Amended Civil Case Management Plan and Scheduling Order entered in the Actions on February 27, 2023 (Cypress Action, ECF No. 95; Sport-BLX Action, ECF No. 38), I, along with counsel to the parties to the Actions, submit this Joint Status Letter in accordance with Rule IV.A.2 of Your Honor’s Individual Rules and Procedures for Civil Cases (“Individual Rules”). In addition, as set forth more fully below, the parties further submit this Joint Status Letter to respectfully request, pursuant to Federal Rule of Civil Procedure 16, an extension of the current fact discovery deadline from May 16, 2023 to July 14, 2023 so that the parties can complete the scheduled depositions of all parties and non-parties to the Actions.

For a complete background on the procedural history of the Actions to date, the parties respectfully refer the Court to the parties’ Joint Status Letters of March 22, 2023 (Cypress Action, ECF No. 98; Sport-BLX Action, ECF No. 43) and April 21, 2023 (Cypress Action, ECF No. 99; Sport-BLX Action, ECF No. 44). We offer the following information to provide an update on the proceedings in the Actions over the past thirty (30) days.

I. Discovery

a. Production of Documents

On April 21, 2023, Cypress Action Defendants GlassBridge Enterprises, Inc. (“GlassBridge”), Daniel Strauss (“Strauss”), and Francis Ruchalski (“Ruchalski”) (collectively, the “GlassBridge Parties”) served a production of 8,095 pages, for a total production of 14,972 pages as of that date. On April 27, 2023, the GlassBridge Parties served a supplemental production of an additional 16 pages, for a total production of 14,988 pages as of that date.

On April 27, 2023, counsel for the Cypress Parties sent an e-mail to counsel for all parties wherein they identified certain perceived deficiencies in their respective document productions as of that date. One day later, on April 28, 2023, counsel for Sport-BLX, Inc. (“Sport-BLX”), Clinton Group, Inc. (“Clinton Group”), Sport-BLX Securities, Inc. (“Sport-BLX Securities”), Cesar Baez (“Baez”), Christopher Johnson (“Johnson”), and George Hall (“Hall”) (collectively, the “Sport-BLX Parties”) responded to that e-mail indicating that a supplemental production would be forthcoming. In their e-mail response, the Sport-BLX Parties further noted that “[a]t this juncture, we do not anticipate producing any additional documents[,]” but further noted that “[i]f additional responsive, non-privileged documents come to our attention, we will produce them.” Later that day, in accordance with its earlier representation, Sport-BLX served a supplemental production of 115 pages, for a total production of 265,620 pages as of that date.

On May 2, 2023, the GlassBridge Parties served a further production of 255 pages, for a total production of 15,243 pages as of that date. One day later, on May 3, 2023 the GlassBridge Parties responded to the Cypress Parties April 27, 2023 e-mail citing to specific documents in their productions which addressed the Cypress Parties’ perceived deficiencies, and indicating that they “do not anticipate producing additional documents at this time.”

On May 11, 2023, the Cypress Parties, after having reviewed the Sport-BLX Parties’ and GlassBridge Parties’ most recent productions, sent another e-mail to counsel for all parties in which they identified certain perceived deficiencies remaining in those parties’ respective document productions. As of today’s date, neither the Sport-BLX Parties nor the GlassBridge Parties have responded to that e-mail, but they intend to do so shortly.

b. Discovery Requests and Responses

On May 2, 2023, the Cypress Parties held a meet and confer with counsel for non-party Orix PTP Holdings, LLC (“Orix”) regarding the document subpoena issued by the Cypress Parties to that entity on March 21, 2023. On May 8, 2023, counsel for Orix advised the Cypress Parties that Orix is “working on locating and reviewing responsive documents” and “will follow up in a couple of days with additional information as to the timeline for production.” As of today’s date, counsel for Orix has not yet provided a timeline for its production of documents responsive to the non-party subpoena.

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Meanwhile, on May 3, 2023, this Court authorized the Sport-BLX Parties to use alternative service methods to serve a deposition and document subpoena on non-party Dennis Nathan. (*See* Cypress Action, ECF No. 102; Sport-BLX Action, ECF No. 46). As of today's date, despite the Sport-BLX Parties having employed the alternative service methods permitted by the Court's Order, Nathan has not yet responded to the subpoena. The Sport-BLX Parties anticipate moving this Court for an order to compel Nathan's compliance with the subpoena or otherwise be held in contempt.

On May 5, 2023, Sport-BLX and Hall provided notice to all parties of a document subpoena to Fox Rothschild LLP, former counsel to the Cypress Parties in these Actions.

On May 8, 2023, the Cypress Parties served their Written Responses and Objections to Sport-BLX's and Hall's Third Requests for Production of Documents to the Cypress Parties. The Cypress Parties anticipate making a supplemental production of documents responsive to those requests by Friday, May 26, 2023. Several days later, on May 12, 2023, the Cypress Parties provided all parties with notice of their issuance of document subpoenas to non-parties Greenberg Traurig, LLP and Luxor Capital Group, L.P. The Cypress Parties requested responses to those document subpoenas by May 29, 2023.

c. Depositions

The parties are continuing to proceed with depositions. The deposition of non-party Tim Cross occurred on April 20, 2023, and the deposition of non-party Christopher Sansone occurred on April 24, 2023. The deposition of Salerno began on May 1, 2023, but was not completed on that date. While the parties had originally agreed to continue Salerno's deposition on May 8, 2023, and had scheduled subsequent depositions to be completed based on the anticipated completion of Salerno's deposition by that date, due to the rescheduling of a necessary medical procedure for Salerno, and the concomitant recovery time required following that procedure, the parties were required to reschedule Salerno's continued deposition for a later date (June 7, 2023). In the interim, the parties conducted the deposition of non-party Marc Gross on May 3, 2023 (which has also been continued due to the fact that it was not completed on that date). Since that time, the parties have met and conferred on numerous occasions to establish a final deposition schedule. The current deposition schedule, as agreed to by the parties, is listed below.

- | | |
|-------------------------------|---------------|
| • Non-party Sam Christopher | May 25, 2023 |
| • Non-party David Roth | June 1, 2023 |
| • Michael Salerno (continued) | June 7, 2023 |
| • Non-party Allen Cohen | June 8, 2023 |
| • George Hall | June 14, 2023 |
| • Joseph De Perio | June 21, 2023 |
| • Francis Ruchalski | June 26, 2023 |
| • Christopher Johnson | June 28, 2023 |
| • Daniel Strauss | June 29, 2023 |

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- Cesar Baez

June 30, 2023

The parties continue to meet and confer to finalize the deposition dates for the continued deposition of Marc Gross and the deposition of non-party Dennis Nathan, whom, as described above, has not yet responded to the subpoena that the Sport-BLX Parties served by alternative means of service.

II. Joint Application for Extension of Fact Discovery Deadline

As the parties indicated to be likely in their April 21, 2023 Joint Status Letter to the Court, based on Salerno's required medical procedure, and the rescheduling of depositions necessitated by it, the parties were not able to complete depositions of all parties and non-parties by the Court's May 16, 2023 deadline for the completion of discovery. Accordingly, the parties respectfully and jointly request, pursuant to Federal Rule of Civil Procedure 16, an extension of the May 16, 2023 deadline to July 14, 2023 to enable the parties to complete depositions in accordance with the agreed-upon schedule referenced above.

Respectfully submitted,

/s/ A. Ross Pearlson

A. Ross Pearlson

Member

cc: All Counsel of Record (*via ECF*)